

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

April 1, 2004

A meeting of the Board of Environmental Protection was held on Thursday, April 1, 2004, at the Civic Center in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Ernest Hilton, Irving Faunce, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler. Board member Matt Scott arrived at approximately 9:20 a.m.

Note: There is one vacancy

<u>Staff:</u>	<u>Bureau of Land and Water Quality</u>	Dana P. Murch
	<u>Bureau of Land and Water Quality</u>	Andrew Fisk
	<u>Office of the Commissioner</u>	James E. Dusch

Others: Dawn Gallagher, Commissioner
David P. Littell, Deputy Commissioner
Jeff Pidot, Director Office of Attorney General (FPL Energy Appeal only)
Jon Edwards, Assistant Attorney General (FPL Energy Appeal only)
Jerry Reid, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 5:00 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner David Littell reported the following:

Deputy Commissioner Littell reported that he will step down from the table as the Board considers the two regular agenda items.

Lincoln Pulp & Paper / Eastern Fine Paper: The Department is currently in possession of both mills and maintaining a warm stasis in accordance with Governor Baldacci's Emergency Proclamation. The Governor and the Department of Economic and Community Development are working on the sale of the facilities with a buyer that has the technical ability to operate the both mills. At this time there are no environmental concerns of a release given the Department's response. The Department has secured the mills and will keep them warm until the sale is complete.

West Old Town Landfill: The Department held a public session on Monday, March 29th and Tuesday March 30th to receive testimony under oath. Additionally, a public meeting on Georgia Pacific's application for bio-mass boiler was held last night in Bangor.

Budget: The Appropriations Committee approved the Department's supplemental budget. The overall budget is still being debated so the final impact to state agencies is not yet known. Additionally, the Department will be asking for an amendment to its bond request, for the purpose of restoring the funds diverted from the clean-up of 17 uncontrolled sites to maintain the Lincoln Pulp and Paper and Eastern Fine Paper mills.

Questions: Board member Irving Faunce asked for a report on the West Old Town Landfill public session.

The Deputy Commissioner explained that while he has not been participating in this matter, Commissioner Gallagher will be attending the Board meeting this afternoon and can respond to questions regarding that matter.

Board member Irving Faunce asked about the status of two rulemaking initiatives: Chapter 127 and Chapter 691.

The Board's Administrative Assistant advised that the Board has adopted Chapter 691. Chapter 127 has been tentatively scheduled for Board consideration on May 6th.

B. CHAIRMAN'S COMMENTS: NONE

C. EXECUTIVE ANALYST COMMENTS:

The Executive Analyst announced that the Board handbook will be made available this afternoon. She thanked Board member Nancy Ziegler, and Peggy McCloskey and Jan McClintock of the Attorney General's Office for their input in the development of the handbook.

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

The Board voted (8-0-0-1) on a motion to approve as presented items 1 and 2.

Board members Ernest Hilton, Nancy Anderson, Katharine Littlefield, Irving Faunce, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Virginia Plummer voted to support the motion. Board member Matt Scott was absent.

1. W&S WOOD PRODUCTS, INC., Jefferson – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
2. INTERSTATE BRANDS CORP., Biddeford - Administrative Consent Agreement and Order (BAQ)

III. Regular Agenda

1. CHAPTER 124, TOTAL REDUCED SULFUR CONTROL FROM KRAFT PULP MILLS / AMENDMENT (adoption)

Staff: Jeffrey S. Crawford, Bureau of Air Quality

The Board voted (9-0-0-0) on a motion to adopt Chapter 124, Total Reduced Sulfur Control From Kraft Pulp Mills as presented. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D, 585, 585-A and 585-B and Section 111(d) of the 1990 Clean Air Act Amendments.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion.

2. CHAPTER 155, PORTABLE FUEL CONTAINER SPILLAGE CONTROL / AMENDMENT (post to 30 day written public comment).

Staff: Jeffrey S. Crawford, Bureau of Air Quality

The Board voted (9-0-0-0) on a motion to post to written public comment the amendments for correction to the California Air Resources Board reference on exemptions of Chapter 155, Portable Fuel Container Spillage Control. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 585-A.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion.

3. MAINE YANKEE PROPERTY TAX EXEMPTION CERTIFICATION (petition for BEP jurisdiction) Staff: James E. Dusch, Office of the Commissioner

The Board voted (1-8-0-0) on a motion to assume jurisdiction and conduct a public hearing on the application by Maine Yankee Atomic Power Company for a property tax exemption certification.

Board member Irving Faunce voted to support the motion. Board members Ernest Hilton, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted opposed.

The Board voted (8-1-0-0) on a motion to approve the Department's recommendation outlined in Board Order A-82-75-O-X as presented which states that the Board will not assume jurisdiction of the application of Maine Yankee Atomic Power Company for a property tax exemption certification. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and 06-069 CMR Chapter 2.

Board members: Ernest Hilton, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce voted opposed.

4. FPL ENERGY MAINE HYDRO LLC / FLAGSTAFF STORAGE PROJECT (appeal)

Staff: Dana P. Murch, Bureau of Land and Water Quality

The Board voted (6-1-0-2) on a motion to direct Department staff to draft an order to deny without prejudice the 401 water quality certification for the FPL Energy Maine Hydro LLC Flagstaff Storage Project as a result of an appeal filed by Maine Rivers, Trout Unlimited, Appalachian Mountain Club and the Natural Resources Council of Maine. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and 06-096 CMR, Chapter 2.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Virginia Plummer, Richard Wardwell and Nancy Ziegler voted to support the motion. Board member Katharine Littlefield votes opposed. Board members Jean T. Wilkinson and Matt Scott were absent.

The Board voted (7-0-0-2) to table the appeal by the Town of Eustis of the 401 water quality certification granted by the Department to FPL Energy Maine Hydro LLC, Flagstaff Storage Project until a final vote is taken on the appeal filed by Maine Rivers, Trout Unlimited, Appalachian Mountain Club and the Natural Resources Council of Maine. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and 06-096 CMR Chapter 2.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Katharine Littlefield, Virginia Plummer, Richard Wardwell and Nancy Ziegler voted to support the motion. Board members Jean T. Wilkinson and Matt Scott were absent.